



DEPARTMENT OF THE ARMY
U.S. ARMY CORPS OF ENGINEERS
441 G ST. NW
WASHINGTON DC 20314-1000

REPLY TO
ATTENTION OF

CECW

FOR DIVISION AND DISTRICT COMMANDERS

12 Sep 2013

SUBJECT: Guidance Pertaining to Cooperative Joint Management Agreements and Leases with Cooperating Associations that Allow Retention and Expenditure of Fees Generated by Charging for the Use of USACE-Constructed Facilities

1. We have conducted a review of our cooperative joint management agreements and leases with cooperating associations that allow retention and expenditure of fees generated by use of USACE-constructed facilities (i.e., facilities constructed with taxpayer funds at recreation sites where USACE maintains some operations and maintenance responsibility) and assessed their compliance with applicable statutory authorities. We have determined that USACE is operating outside its legal authority by allowing cooperating associations to retain and expend recreation user fees as currently established in the cooperative joint management agreements and leases. By statute, all user fees must be returned to the Land and Water Conservation Fund in the U.S. Treasury. As a result, the current agreements and leases will need to be either modified to conform to the statutory authorities or terminated not later than 16 September 2013. It is critical that appropriate actions are taken to cease expenditures not consistent with lawful authority.

2. Accordingly, all divisions and districts shall adhere to the following guidance:

a. No new agreements or leases will be signed with any cooperating associations for cooperative joint management of recreation sites, and no existing cooperative joint management agreements and leases will be renewed until further guidance is issued.

b. Districts should not approve any cooperating association's proposed spending plan, nor allow the cooperating association to execute/implement approved spending plans involving any construction of any facilities, rehabilitation of any capital improvements, acquisition of any major equipment (e.g., purchasing vehicles), or other such expenditures.

c. Districts must advise cooperating associations that they should not enter into any new contracts for any expenditure for equipment, infrastructure, marketing, etc. using funds collected as user fees.

d. If recreation sites under terminated agreements and leases are to remain open for the remainder of the recreation season, USACE must either fund necessary activities using existing Civil Works funds and employees or volunteers, or the Cooperating Associations must be able to pay such costs using funds that were not derived from collections of receipts for use of facilities that were constructed with taxpayer funds. Accordingly, districts shall immediately advise the Chief, Operations Division, Directorate of Civil Works, HQUSACE of your ability either to

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make available USACE employees or volunteers to perform the minimal operation and maintenance activities needed to protect public health and safety and to perform other essential activities (e.g., gate attendants), or to put in place immediately USACE contracts to perform these activities for the rest of the fiscal year. If districts can perform these functions for the remainder of the fiscal year but can only do so if additional Civil Works funds are provided, report immediately the amount of funds required to the Chief, Operations Division. HQUSACE will promptly advise districts whether such funds will be provided. Otherwise, please provide to the Chief, Operations Division no later than close of business 12 September 2013, any plans to close recreation sites and the immediate impacts to campers currently on-site and those with existing reservations. Also advise of your plans to operate affected recreation sites in FY14 and what, if any, closures would be required. Please advise the Chief, Operations Division of any such plans no later than 20 September 2013.

e. HQUSACE has notified the National Recreation Reservation Service that all user fees generated from 25 August 2013 forward shall be redirected to the U.S. Treasury.

3. Implementation of this guidance will require coordination between Operations, Real Estate, and Offices of Counsel at Headquarters, divisions, and districts.

4. If you have any questions or concerns, the primary point of contact is Ms. Mary Coulombe, Chief of Natural Resources Management, at (202) 761-1228.



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